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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,314	06/18/2001	David Michael Jarman	5514	8921
6858	7590	09/28/2004	EXAMINER	
BREINER & BREINER 115 NORTH HENRY STREET P. O. BOX 19290 ALEXANDRIA, VA 22314			COLIN, CARL G	
			ART UNIT	PAPER NUMBER
			2136	
DATE MAILED: 09/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/868,314

Applicant(s)

JARMAN, DAVID MICHAEL

Examiner

Carl Colin

Art Unit

2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 18 June 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 June 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. Pursuant to USC 131, claims 1-19 are presented for examination.

### ***Specification***

2. The abstract of the disclosure is objected to because the first sentence should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.  
Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

3. Claim 1 is objected to for lack of indentation of limitation. See MPEP § 608.01(m).  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

**Claim 15** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3.1 Claim 15 recites the limitation "the encryption key" and "that data". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.1 **Claims 18-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,084,969 to **Wright et al.** in view of International Patent Publication WO 98/08344 to **Sach**.  
(*Applicant IDS*).

4.2 **As per claim 1, Wright et al.** substantially teaches a an apparatus for the transmittal, reception, storage and display of data in an electronic format in which there is provided a casing that includes a data storage means, a data display means, and a data transmission/reception means including at least one output/input port, and wherein the data transmission/reception means includes means-for decrypting received data and placing it in the data storage means, encrypting and transmitting data from the data storage means and means for storing at least one encryption key, and wherein the apparatus is configured such that one encryption key references addresses in a portion of Read only Memory forming part of the apparatus, and so that the content of those addresses is used to encrypt/decrypt transmitted/received data, for example (see column 6, line 35 through column 7, line 38). **Wright et al.** discloses using key references addresses in memory so that the content of those addresses is used to encrypt/decrypt transmitted/received data, for example (see column 14, lines 16-55). **Wright et al.** discloses memory for key storage but is silent about which type of memory. It is obvious to one skilled in the art that the device is capable of holding non-volatile and ROM memory storage. **Sach** discloses a device used for transmission and reception of data; also discloses a ROM which can execute program instructions and further discloses key being stored in ROM that meets the recitation wherein the apparatus is configured such that one encryption key references addresses in a portion of Read only Memory forming part of the apparatus, for example (see page through page 9, 2<sup>nd</sup> paragraph and page 9 1st paragraph). The intended use of the ROM is even disclosed by both references. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of **Wright et al.** to use a ROM memory wherein the apparatus is configured such that one encryption key references addresses in a

portion of Read only Memory forming part of the apparatus, and so that the content of those addresses is used to encrypt/decrypt transmitted/received data as taught by **Sach**. This modification would have been obvious because one skilled in the art would have been motivated by the suggestions provided by **Sach** to use either or ROM or RAM as a design choice or depending on security measures.

**As per claim 2, Wright et al.** discloses receiving new key for encryption the new key may overwrite the old key. Claim 2 recites the same inventive concept as claim 1 and therefore is rejected on the same rationale as the rejection of claim 1. It is also well known in the art overwriting of key and key deletion to have the key periodically changed.

**As per claims 3-4, Wright et al.** discloses the option of choosing key size suitable for design use.

**As per claims 8, 12, and 13, Wright et al.** substantially discloses a method of using apparatus according to claim 1 or 2 for the reception of electronic data from an external data source comprising:

- i) entering the apparatus into electronic communication with the data source and sends an identification code to the data source, for example (see column 9, line 10 through column 10);
- ii) confirmation by the data source of the identity of the apparatus and thereby determines what encryption key to use in communicating with the apparatus, for example (see column 9, lines line 35 through column 10, line 32);

iii) sending by the apparatus a code to the data source identifying the data to be received by the apparatus, for example (see column 9, lines line 35 through column 10, line 32);  
iv) transmission by the data source of the identified data in encrypted form to the apparatus which decrypts that data and places it in the data storage means, for example (see column 13);  
v) transmission by the data of a new encryption key to the apparatus, which key overwrites the previous encryption key, for example (see column 14) and vi); breaking the communication between the apparatus and the data source. It is apparent that the communication can terminate after receiving requested data. Claim 12 recites the same inventive concept except for switching the function of the end user. The destination and the source can perform the same function and they can represent the same entity without departing from the spirit and scope of the invention disclosed by **Wright et al.** or the same encryption process can be applied with two parties as in the invention disclosed by Sach.

**Claims 5-7 and 9-11** disclose the same inventive concept as claims 1, 8, 12, and 13, therefore, they are rejected on the same rationale as claims 1, 8, 12.

**Claims 14-19** recite the same limitation as the previous claims such as 9-11. Therefore, they are rejected on the same rationale.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 703-305-0355. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

cc

Carl Colin

Patent Examiner

September 23, 2004

  
AYAZ SHEIKH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100